IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3675 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BARODA BITUMEN CO.

Versus

GUJ.WATER & AIR POLLUTION CONTROL BOARD

Appearance:
MR PV HATHI for Petitioner
MR JT TRIVEDI for Respondent No. 1
M/S TRIVEDI & GUPTA for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE H.H.MEHTA

Date of decision: 12/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

1. By filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of certiorari or a writ of mandamus or any other appropriate writ order or direction to quash and set-aside the order dated June 24, 1985 passed by the Gujarat Water and Air Pollution Control Board, rejecting the prayer made by the petitioner to give consent as contemplated by the provisions of Air (Prevention and Control of Pollution) Act, 1981.

2. The petitioner is a partnership firm and is engaged in the manufacture of bitumen at G.I.D.C. estate, Nandesari, District Baroda. Section 17 of the Air (Prevention and Control of Pollution) Act, 1981 (the`Act' for short) inter-alia provides that no person shall without the previous consent of the State-board should operate any industrial unit for the purpose of any industry specified in the schedule in an air pollution controlled area. The petitioner made an application for obtaining the consent of the Board. The Board rejected the said application by order dated June 24, 1985, which has given rise to the present petition. We may state that at the time of admission hearing of the petition, interim-relief was granted in favour of the petitioner which has continued till date and the order requiring the petitioner firm to close down the factory has been kept in abeyance. It is not in dispute that during the pendency of the petition, a fresh consent application was made in January 2000, which was entertained and consent as contemplate by the Act was given which was valid upto March 3, 2001. The learned counsel for the petitioner has produced a copy of the order granting consent for operation of the plant under Section 21 of the Act, which is ordered to be taken on the record of the petition. It is also not in dispute that the petitioner has made renewal application under Section 21 of the Act on February 28, 2001 in the prescribed form after depositing necessary fee as the earlier consent order dated March 21, 2000 was to expire on March 3, 2001.

3. In view of grant of consent order and filing of subsequent renewal application during the pendency of the petition, we are of the view that the petition has become infructuous and deserves to be disposed of accordingly.

For the foregoing reasons the petition is dismissed as having become infructuous. Rule is

discharged with no order as to costs. Ad-interim relief granted earlier is hereby vacated. Respondent No.1 is directed to dispose of the renewal application submitted by the applicant on merits and in accordance with law as early as possible and without any avoidable delay.

(J.M. Panchal, J.)

(H.H. Mehta, J.)

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